

Applicant: AEC Investment, Inc.

Agent: Garlan Bryan Architect

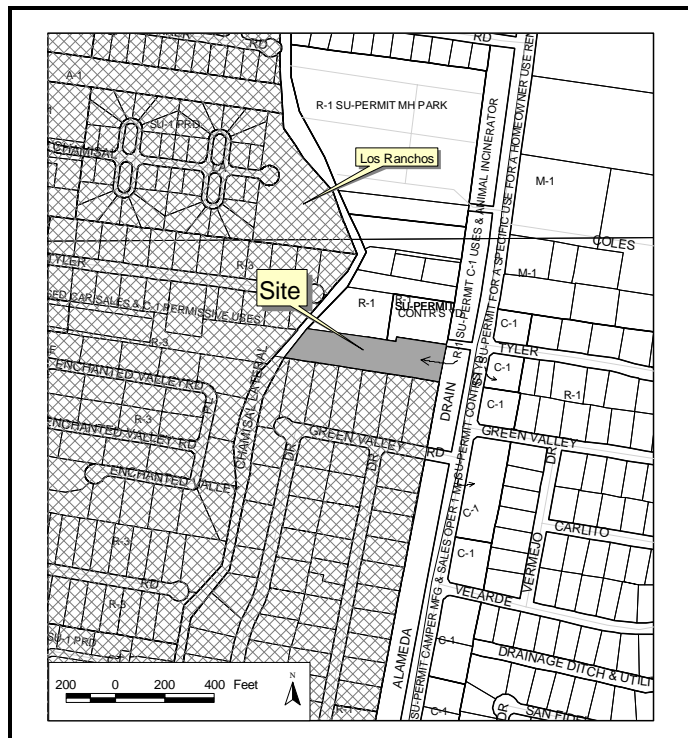
Location: 6901 Second St., NW

Property Size: 1.90 acres (approximately)

Existing Zone: R-1/SUP for C-1
Uses/Animal Incinerator

Proposed Zoning/SUP Amendment to Special Use
to include facilities for
Hospital for Animals

Recommendation: Approval



Summary: This is a request for an amendment to an existing Special Use Permit on a 1.9 acre property located on the west side of Second St., north of Osuna Rd. This property has had a veterinary clinic on it since prior to the adoption of County Zoning and has had a Special Use Permit on it since 1985. This request seeks to clarify the permissive uses on the site and update the site plan to include existing and proposed activities associated with the animal hospital (equine) that has operated on the site for more than 20 years.

Staff Planner: Catherine VerEecke, Program Planner

- Attachments:**
1. Application
 2. Zoning and Land Use Maps
 3. Previous Special Use Permit, Notices of Decision
 4. Petitions of support
 5. Access easement documentation
 6. Site Plan (Commissioners only)

Bernalillo County Departments and other agencies reviewed this application from 10/24/05 to 11/7/05. Their comments were used in preparation of this report, and begin on Page 11.

AGENDA ITEM NO.: 14
County Planning Commission
December 7, 2005

CSU-50035 Garlan Bryan Architect, agent for Albuquerque Equine Clinic, requests approval of an amendment to an existing Special Use Permit to include horse holding pens and an exercise pen on Lot 15A2, MRGCD Map #29, located at 6901 2nd Street NW, on the west side of 2nd Street, north of Green Valley Road, zoned R-1 with a Special Use Permit for Specific C-1 Uses & Animal Incinerator, containing approximately 1.90 acres. (E-15)

AREA CHARACTERISTICS AND ZONING HISTORY
Surrounding Zoning & Land Uses

Site	Zoning	Land use
	R-1 with Special Use Permit for C-1 Uses and Animal Incinerator	Animal (equestrian) hospital
North	R-1 R-1/Special Use Permit for Contractor's Yard	Single Family Residential Contractor's Yard
South	R-1	Single Family Residential
East	C-1	Commercial
West	Drain M-H	Drain Single Family Residential

BACKGROUND:

The Request

The applicant is requesting an amendment to a Special Use Permit to allow additional facilities for an existing animal hospital located at 6901 Second St. The property consists of one 1.9 acre parcel on the west side of Second St. and the Alameda Drain, east of the Chamisal Lateral, about a half-mile north of Osuna Rd. The underlying zoning is R-1. The request seeks to continue the existing uses on the site, namely an equine hospital, a riding area, and stalls for horses, and add additional stalls in the rear of the property.

Case History

This property has had veterinary-type uses on it since 1968, prior to the institution to County Zoning. This use, which included a building at the front of the property and a corral in the rear was granted non-conforming status in 1970 and 1974 (NCU-465).

In 1985, the property owner at the time requested a zone change to C-1 to continue to use the easterly 300 feet of the property (.9 acres) for the animal hospital but also to allow for other commercial activities (CZ-85-38). The County Planning Commission recommended denial of the request and the property owner appealed. The BCC remanded the request for consideration of a Special Use Permit for Specific C-1 Uses. The CPC recommended approval of 20 possible uses (mainly retail), including 'clinic', with the conditions that there would be no outdoor storage and no noise or odor (Attachment 3). The BCC approved this request in October, 1985. Evidently, since animal hospital was not listed as a permissive use, the non-conforming use status has remained in effect, as indicated in subsequent Zoning Certifications (Attachment 3). The site plan was approved in 1986, which showed an addition to the existing building and a row of stables behind it. None of the other listed uses were shown.

In 1998, following an inspection of the property, it was determined that an incinerator was located on the property, which was outside the scope of the existing Special Use Permit. On October 28, 1998, the Extraterritorial Land Use Authority approved an amendment to the Special Use Permit to add an animal incinerator. At this time, the area included in the Special Use Permit was extended to cover the entire parcel from Second St. to the Chamisal Lateral.

In May 2003, an administrative amendment was granted to allow a 723 sq. ft. animal surgery room to be placed at the rear of the existing animal clinic (Attachment 3).

In September 2005, the current owner sought a permit to add additional stalls in the rear of the property. Staff advised the owner to amend the Special Use Permit to reflect the current proposed uses and structures on the site (several activity areas and stalls appear to have been added outside any County process). The current site plan thus shows the existing structure, stables, and riding arena, along with two movable stalls (one is existing), which were never approved under the Special Use Permit.

Request justification. The applicant's agent points out that this property has been developed with similar uses since the 1960s. In the response to Resolution 116-86, the agent states that the proposed land use is appropriate for several reasons. He argues that it will not be harmful to the area, as it has been well maintained and landscaped over the years. It also is consistent

with the Comprehensive and Area Plans for the area that encourage development of small, locally-owned businesses, and the equine facility is consistent with the semi-rural character of the area.

Surrounding Land Uses and Zoning

The subject property is located about one-half mile north of Osuna Rd. on the west side of Second St nearby several residential neighborhoods. The properties to the north of the site are zoned R-1 and have single family dwellings or are vacant. To the immediate north (along Second St.), a property has a Special Use Permit for a Contractor's Yard (CZ-85-38). Behind that is a single family residence. To the north of these properties are located single family residences and a Mobile Home Park. To the south of the subject property are single family residences in the Zia Gardens Subdivision. These, along with properties to the west of the Chamisal Lateral, have been annexed into the Village of Los Ranchos.

On the east side of Second St., the uses are more varied. Properties that front Second St. have C-1 zoning with commercial uses including camper tops and fitness equipment sales. One property has a Special Use Permit for a Contractor's Yard and another had a Special Use Permit for a Rental Center, which has expired (CZ-89-3; CZ-90-24). Further north on the east side of Second St. is an industrial park with M-1 zoning. Also in this area are residential subdivisions with R-1 zoning.

APPLICABLE PLANS AND POLICIES:

Albuquerque/Bernalillo County Comprehensive Plan

The site is located in the Semi-Urban Area as delineated in the Albuquerque/Bernalillo Comprehensive Plan. The principal goal for this area is to "maintain the character and identity of semi-urban areas which have environmental, social or cultural conditions limiting urban land uses."

North Valley Area Plan

This property is located within the Semi-Urban area of the North Valley Area Plan. The plan states that properties in this area may have special soil and water limitations or scenic, agricultural, or recreational assets, with the appropriate gross density at 1 to 3 dwelling units per acre.

Policy 2.3.c states that the City and County shall promote commercial development and redevelopment of existing commercially-zoned properties.

Policy 2d (Land Use) requires landscape buffering and other measures are necessary to limit potential impacts of non-residential uses on residential areas.

The property is also located in an area the Plan refers to as the "Second Street to Fourth Street Sub-Area" of the Plan, which extends from Fourth Street in the west to the railroad in the east, and north from Montano Rd. to Paseo del Norte. The plan calls out the portion of Second St. between Osuna Rd. and Paseo del Norte as "a transitional area between the more rural to the north and the more urban environment in the south. The provision of urban services into this portion of the plan area has supported requests for higher density residential

and commercial zoning.”

The Plan states that the “land use pattern should reflect the present zoning” (Appendix, p.4).

Bernalillo County Zoning Ordinance

Resolution 116-86 lists policies for evaluating a Zone Map changes and Special Use Permit applications.

- A. A proposed land use change must be found to be consistent with the health, safety, and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other Master Plans and amendments thereto including privately developed area plans which have been adopted by the County.
- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
 - 1. There was an error in the original zone map.
 - 2. Changed neighborhood or community conditions justify a change in land use or
 - 3. A different use category is more advantageous to the community as articulated in the Comprehensive Plan or other County Master Plan, even though (1) and (2) above do not apply.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. A proposed land use change which, to be utilized through land development, requires major and unprogrammed capital expenditures by the County may be:
 - 1. denied due to lack of capital funds; or
 - 2. granted with the implicit understanding that the County is not bound to provide the capital improvements on any special schedule.
- H. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- I. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a “spot zone.” Such a change of zone may be approved only when:
 - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted land use plan; or

2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- J. A zone change request which would give a zone different from the surrounding zoning to a strip of land along a street is generally called a “strip zoning.” Such a change of zone may be approved only when:
1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone due to traffic or special adverse uses nearby.

ANALYSIS:

Surrounding Land Use and Zoning

This property has had an animal hospital on it since the 1960s, prior to the adoption of the County Zoning Ordinance. This use has continued with some additions since that time. The property has R-1 zoning in the front and the rear, which does not allow the types of use located on the site or being requested, so that a non-conforming use status was granted and Special Use Permits for C-1 uses have existed on the property since the 1980s, although no other uses were ever established. The veterinary uses appear to be compatible with the commercial uses nearby the property along this portion of Second St., which were established in over the last twenty years under C-1 zoning or Special Use Permits.

The proposal to eliminate the potential for other C-1 uses would minimize potential impacts of detrimental uses, such as package liquor sales and service station. The use is in an enclosed building, except for the horse stalls in the rear of the property, which has a semi-rural feel to it. There are, however, residential developments to the immediate south and northwest of the property, which could be negatively impacted by the development, without the proper buffering.

Plans

This property is located in the Semi-Urban Area. The Comprehensive Plan and the North Valley Area Plan suggest that this Area should retain its semi-rural, residential character and should not allow new permanent zone changes or special use permits for industrial or heavy commercial uses. However, the use has been low impact and much of the site has been preserved as rural with horse stalls and pasture. In addition, the North Valley Area Plan does state that existing commercially-zoned properties may be developed or redeveloped with commercial uses and recognizes that this portion of Second St. already has some commercial uses on it.

Zoning Ordinance

It appears this request is consistent with Resolution 116-86 of the Zoning Ordinance in that the particular use would not have a significant impact on adjacent properties and would be consistent with other uses in the area. It appears that 'changed neighborhood conditions' can be used as a justification for this request as there has been a trend towards C-1 zoning and Special Use Permits in the immediate vicinity of the site. The request is also consistent with the North Valley Area Plan policies that support the redevelopment of existing commercially-zoned properties.

The applicant also suggests in the justification statement that unique conditions have existed with the use in that the property has been developed with an animal clinic for more than 30 years.

Agency Comments

County staff and representatives from other agencies have provided comments on this case. Several departments have no adverse comments for the development as it is already existing and the site is relatively clean and free of debris. However, there are a few issues with the site development plan and the site that need may to be considered before the request can be approved.

County Zoning staff comments indicate that the development should follow current landscape and fencing requirements. This would include a landscape buffer and solid fencing/wall along part of the north and all of the south property lines and landscaping in the front setback. However, the agent notes that this development has been in existence since the 1960s and is relatively low impact (e.g., horses in the rear) so that the current configuration (split rail fence, some existing landscaping) should be adequate.

Environmental Health staff notes that it appears that the site is connected to City sewer service, but has un-permitted wells on the site. This must be dealt with as a condition of approval. In addition, an animal waste management plan must be provided.

Public Works comments also indicate that site's access may need clarification. The applicant has clarified this easement (Attachment 5).

Analysis Summary

Zoning	
Resolution 116-86	Changed neighborhood conditions have taken place and the use is consistent with other nearby uses along Second St.
Requirements	Must comply with code requirements for landscaping, fencing. Evidence of substantial neighborhood support has been provided. Unique conditions exist in that the property has had an animal clinic on it for more than 30 years and development has occurred around the site.

Plans	
Comprehensive Plan	Use is consistent with Semi-Urban Area designation; maintains rural features of the site.
Area Plan	Use is consistent with North Valley Area Plan policies regarding re-development of commercial properties
Other	
Other Requirements	
Environmental Health	May require well permit. Provide animal waste management plan.
Public Works	May require new access and permitting.
Zoning	Provide appropriate surfacing for storage area.
Other	Conditions of approval of previous SUP have not been adequately met.

Conclusion

In conclusion, it appears that the requested amendment to the existing Special Use Permits is appropriate. The general uses, which date back to the 1960s, have had limited impact on the area and are consistent with the semi-rural character of the area, as well as the nearby commercial uses. Conditions of approval help mitigate the impacts of the use on the nearby residential properties. The Planning Commission would need to decide about waiving the requirements for landscaping along the front of the site and a solid wall or fence along the south property line, as requested by the applicant.

The applicant has provided evidence of neighborhood support.

This property currently has an approved non-conforming use and two Special use Permits. The non-conforming use eventually will expire, and it appears likely that the owner will not pursue the C-1 uses approved for this property in 1985. Staff recommends that these three permits be closed out and a Special Use Permit for Specific Use for Animal Hospital be granted for the property, thereby eliminating any ambiguities about the approved uses and physical boundary for the Special Use Permit.

FINDINGS:

1. This request is for approval of a Special Use Permit for an Animal Hospital (to include horse holding pens and an exercise pen) on Lot 15A2, MRGCD Map #29, located at 6901 2nd Street NW, on the west side of 2nd Street, north of Green Valley Road, zoned R-1 with a Special Use Permit for Specific C-1 Uses & Animal Incinerator, containing approximately 1.90 acres.
2. The property is located in the Semi-Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan and the North Valley Area Plan.
3. This property had a veterinary clinic on it since 1968, later permitted as a non-conforming use (NCU-465), and a Special Use Permit for C-1 Uses and an Animal Incinerator (CZ-85-38; CSU-98-19).
4. The granting of this Special Use Permit (CSU-50035) for a Veterinary Hospital supercedes the previous permits (CZ-85-38; CSU-98-19).
5. This request is consistent with Resolution 116-86 in that the proposed land use is more advantageous to the community in that the North Valley Area Plan Policy 2.3.c states that "the City and County shall promote commercial development and redevelopment of existing commercially-zoned properties".
6. This request has substantial neighborhood support.
7. Unique conditions justifying the request exist in that the property has had an animal clinic on it for more than 30 years and the site has preserved its rural features as the area has developed around it.
8. This request is consistent with the health, safety, and general welfare of the residents of the County.

RECOMMENDATION:

Approval, based on the above Findings, with the following Conditions of Approval.

Catherine VerEecke
Program Planner

CONDITIONS:

1. The applicant shall obtain a building permit for the proposed stalls.
2. Activities will take place within the existing structure except for advertised outdoor public functions.
3. Lighting shall be site specific. Shielded or cutoff lighting fixtures shall be provided so that no fugitive light crosses into adjacent lots.
4. There shall be a six-foot high solid fence along the property lines abutting residential uses.
5. There shall be a 15 foot wide landscaped front yard along Fourth St. and a 6 foot wide landscaped buffer between the existing business and the adjacent residential properties.
6. The applicant shall comply with all applicable Bernalillo County ordinances and regulations.
7. Access and drainage issues shall be satisfactorily addressed and approved by the Bernalillo County Public Works Division within one year of the final Board of County Commissioner's approval.
8. An access license from the Middle Rio Grande Conservancy District shall be provided to Bernalillo County Public Works and Zoning, Building, Planning, and Environmental Health Department.
9. Applicant shall obtain well permits for the existing wells on the site from Bernalillo County Office of Environmental Health within six months of the final Board of County Commissioners' approval. An animal waste control plan and a vector control plan shall also be submitted and approved by the Office of Environmental Health six months no less than six months after the final Board of County Commissioners' approval.
10. The Special Use Permit is for the life of the use.
11. A revised site development plan consistent with the Conditions of Approval shall be submitted for review and approval to the Zoning Administrator within two months after the final Board of County Commissioners' approval.
12. The foregoing conditions shall become effective and shall be strictly complied with immediately upon execution or utilization of any portion of the rights and privileges authorized by this Special Use Permit.

BERNALILLO COUNTY DEPARTMENT COMMENTS

Building Department:

Corrections listed below must be corrected for approval:

Building permits will be required for the proposed shade structure as a condition of approval.

Environmental Health:

The applicant is required to submit an animal waste handling, storage and disposal plan. Additionally, a plan for the control of vectors and odor is also required.

The application did not contain a well log for a well located on the property or the nearest well in accordance with 74-96(b)(1) of the County subdivision ordinance and the applicant did not provide a water analysis from that well in accordance with 74-105(1) of the County subdivision ordinance. The water sample shall be sampled at a minimum for the following (Fecal Coliform, TKN, NH₃, NO₃, NO₂, Na, K, Ca, Mg, Cl, HCO₃ and SO₄).

Please permit the one "good" well and conduct the above water analysis. Provide the well drill log.

Abandon the "unused" or bad well. Contact Bernalillo County EH Office for specific guidance. 505-314-0310

1. Property is connected to Public sewer.
2. Provide a comprehensive vector control plan.

Zoning Enforcement Manager:

Must comply with below listed comments.

A solid wall /fence is required per the landscape ordinance. The existing 6' wire fence along the residential property to the south requires a solid wall/fence and should remain enforceable. Based on current and past complaints where large animals are kept in R-1 zones this has created problems, due to noise, odor and vector problems.

No other adverse comments.

Fire:

No comment received

Public Works:

DRAN:

1. This property is subject to the Bernalillo County code chapter 38. Prior to any development or additional development of this property a drainage submittal meeting the requirements of this code will be required.

2. The addition of the shade structure will not initiate a requirement for a grading and drainage plan for the site as long as all current and additional developed flows are managed by shallow swales, or depressed landscaping and not freely discharged offsite.

DRE:

1. Site access appears to be in nonconformance to Bernalillo County Street Standards and shall be revised. The applicant shall clarify the status of the drive pad, which appears to be a shared access easement with the neighbors to the north and west. This area may need to be dedicated as an access easement. The access easement north of the property shall be shown on the site plan and shall be named. Further development of this property may require road improvements.
2. A MRGCD license is required to cross the Alameda Drain. Provide Bernalillo County Public Works Division with a copy of this license.

Hydrology

1. Public Works - Water Resources is responsible for addressing stormwater runoff issues. The property is located between the Chamisal Lateral and the Alameda Drain and presumably drains to one or the other of the water bodies.
2. Recent NMED studies indicate that there is a water quality compliance issue for the Middle Rio Grande regarding fecal coliform. The study indicates that approximately 4.3 percent is due to equine waste, and a total of 13.4 percent from large animals of all types.
3. Due to stormwater runoff concerns, Public Works is requesting that the permit be conditioned on submittal and compliance with a written animal waste management plan to be prepared by the applicant consistent with BCEHD request and requirements.
4. Public Works is specifically requesting that no waste accumulation be allowed, or if allowed by BCEHD that the piles be covered to prevent stormwater runoff and located no closer than 25 feet from either water body, from driveways or other areas used for routine vehicular traffic such as loading areas, or from paved areas that drain off-site.
5. Public Works defers to BCEHD decisions in determining adequacy of the submitted plan.

Parks & Recreation:

No adverse comments at this time.

Sheriff's:

No comment received

COMMENTS FROM OTHER AGENCIES

MRGCOG:

No comment.

AMAFCA:

No comment.

City Planning Department:

No comments received.

City Public Works:

Transportation Planning: No comments.

Transportation Development: No adverse comments.

Water Resources: ZCSU 50035 - The address does not match the UPC# on application. The address of 6917 matches the UPC# on application. 6917 has a flat rate sanitary sewer account but no water account and is apparently on a private well. 6901 has no water and/or sanitary sewer accounts.

City Transit:

No comments received.

City Open Space:

No comments received.

NMDOT

No comments.

Middle Rio Grande Conservancy District

No comments received.

NEIGHBORHOOD ASSOCIATIONS:

Alameda North Valley Association

Zia Gardens